

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**HEIRS OF THE ESTATE OF
WILLIAM & ELLA ANDERSON,
DECEASED AND MONTEEN
ANDERSON PRUITT**

V.

SUN OIL CRUDE, ET AL.

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CIVIL ACTION NO. 6:06-CV-194

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF MAGISTRATE JUDGE**

The above entitled and numbered civil action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. The Report and Recommendation of the Magistrate Judge, which contains his proposed findings of fact and recommendations, has been presented for consideration (Doc. No. 115). The parties did not file any objections to the Report and Recommendation. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report and Recommendation of the United States Magistrate Judge as the findings of this Court.

Accordingly, it is **ORDERED** that Defendants' Motions to Dismiss as to Defendants Amerada Hess (Doc. No. 96); Sunoco Partners Marketing & Terminals L.P. ("Sunoco"), incorrectly referred to as "Sun Oil Crude" (Doc. Nos. 97 and 114); and OXY (Doc. No. 101) are **GRANTED** for lack of subject matter jurisdiction, and Plaintiffs' case is **DISMISSED** as to these Defendants.

Further, it is **ORDERED** that Sunoco's Motion to Strike the Amended Plea of Complaint (Doc. No. 113) is **DENIED** as moot, and Plaintiffs' Motion to Deny Defendants' Motion for Dismissal (Doc. No. 108) is **DENIED**.

Finally, it is **ORDERED** that Texaco and Chevron's Motion to Dismiss (Doc. No. 85) for

improper service is **DENIED**. However, the Court notes that Plaintiffs must serve Texaco and Chevron with a summons, together with a copy of Plaintiffs' complaint, within 45 days of the Court's order, in conformity with the Federal Rules of Civil Procedure and this Court's order.

So ORDERED and SIGNED this 4th day of September, 2007.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**